

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Adam J. Canni et al.

Serial No.: 10/758,563

Filed: January 15, 2004

For: OVERHEAD CONSOLE FOR A VEHICLE

Attorney Docket No.: LEAR 0660 R

Examiner: Gregory A. Blankenship

Art Unit: 3612

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT OR,
IN THE ALTERNATIVE, FOR REVIVAL OF ABANDONED
PATENT APPLICATION**

Mail Stop Petition
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As indicated in the Notice of Abandonment issued August 2, 2007, the above-identified application became abandoned for failure to file a timely and proper response to the Office Action mailed on November 4, 2005, which set a three month period for response. The abandonment date of this application is May 5, 2006 (i.e., the day after the expiration date of the period set for response plus any extensions of time obtained therefor).

Based on the information provided in the attached affidavit, Applicants respectfully believe that the patent application was improperly abandoned, and hereby petition for withdrawal of the holding of abandonment under 37 C.F.R. § 1.181(a). In that regard, as indicated in the attached affidavit, the Examiner informed the Applicants on May 1, 2006 (i.e., prior to the date of abandonment) that the application had been allowed and that a Notice of Allowance would be issued shortly. Furthermore, Applicants were advised on that same date that no additional response to the final Office Action was required. Relying on that information, no additional response was filed by Applicants prior to May 5, 2006.

When the Examiner later determined that additional formalities needed to be addressed, it is respectfully believed that the Examiner should have withdrawn the finality of the last Office Action and issued a new Office Action, or an action closing prosecution on the merits in an otherwise allowable application under *Ex parte Quayle*, 25 USPQ 74, 1935 C.D. 11, 435 O.G. 213. Such procedures are addressed in Section 714.03 of the Manual of Patent Examining Procedure, p. 700-254, for example.

If the Patent Office does not agree that the application was improperly abandoned, then Applicants hereby petition for revival of an unavoidably abandoned application under 37 C.F.R. § 1.137(a). The attached affidavit shows that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, since Applicants were informed that the application had been allowed, which Applicants confirmed in a written Communication filed May 3, 2006, prior to the date of abandonment and were subsequently informed, on August 1, 2007, that the application had gone abandoned.

If the Patent Office does not agree that the application was either improperly abandoned or unavoidably abandoned, then Applicants hereby petition for revival of an unintentionally abandoned application under 37 C.F.R. § 1.137(b).

**APPLICANTS HEREBY PETITIONS FOR WITHDRAWAL OF THE
HOLDING OF ABANDONMENT OR, IN THE ALTERNATIVE,
FOR REVIVAL OF THIS APPLICATION**

1. Petition fee

X No petition fee is believed to be due for the petition under 37 C.F.R. § 1.181(a) requesting withdrawal of the holding of abandonment.

If the Patent Office does not agree that the application was improperly abandoned, then the Commissioner is hereby authorized to charge the \$500 petition fee under 37 C.F.R. § 1.17(l) to our deposit account no. 02-3978 for a petition to revive an unavoidably abandoned application under 37 C.F.R. § 1.137(a).

If the Patent Office does not agree that the application was either improperly abandoned or unavoidably abandoned, then the Commissioner is hereby authorized to charge the \$1,500 petition fee under 37 C.F.R. § 1.17(m) to our deposit account no. 02-3978 for a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(b).

The Commissioner is also authorized to charge any additional required fees to that same deposit account.

2. Proposed response and/or fee

A. The proposed responses and/or fee to the above-noted Office Action in the form of Amendments and Supplemental Declarations (identify type of response):

X have been filed previously on March 22, 2006; November 21, 2006 and February 9, 2007. If a Request for Continued Examination under 37 C.F.R. 1.114 is deemed to be required for entry of the above Amendments and Supplemental Declarations, such request is enclosed herewith.

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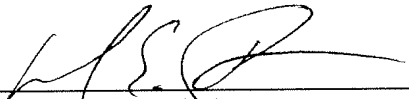
3. Statement (If determined to be an unintentionally abandoned application under 37 C.F.R. § 1.137(b)):

The entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional.

4. Affidavit of Mark E. Stuenkel is enclosed.

Respectfully submitted,

LEAR CORPORATION

By: 
Mark E. Stuenkel
Reg. No. 44,364
Attorney/Agent for Applicant

Date: August 6, 2007

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Enclosures: X Affidavit
X Request for Continued Examination